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10/718,104	11/19/2003	Jeffrey D. Winkler	BENST-63201	9893
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FULWIDER PATTON LLP HOWARD HUGHES CENTER 6060 CENTER DRIVE, TENTH FLOOR LOS ANGELES, CA 90045			VEZERIS, JAMES A	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/718,104	<b>Applicant(s)</b> WINKLER ET AL.
	<b>Examiner</b> JAMES A. VEZERIS	<b>Art Unit</b> 3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 20 February 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-11,13-17,19-21,23 and 24 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) -11, 13-17, 19-21, 23, and 24 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**Final Rejection**

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Response to Arguments**

2. Applicant's arguments with respect to claims 1-11, 13-17, 19-21, and 23-24, in view of the 103 rejection have been considered but are moot in view of the new ground(s) of rejection.
3. Claims 1, 4, and 5 have been amended and overcome their respective 112 1<sup>st</sup> Paragraph rejection.

**Detailed Action**

**Claim Rejections- 35 U.S.C. 103(a)**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1-11, 13-17, 19-21, 23, and 24 rejected under 35 U.S.C. 103(a) as being unpatentable over PG-Pub 2002/0013711 to Ajuha et al. (Hereinafter "Ahuja") in view of PG-Pub 20020174045 to Arena et al. (Hereinafter "Arena").

**Regarding Claim 1.**

Ajuha teaches:

determining when the user is to be notified that the user's investment in an individual one of the different asset classes is outside of the investment limits established by the user for the individual ones of the different asset classes; (See Ajuha figs 1, 6(a), 6(b), 10, Paragraphs 44 and 51)

selecting a mode by which the user is to be notified that the user's investment in individual ones of the different asset classes is outside of the limits established by the user for these asset classes; (See Ajuha paragraphs 5 and 6)

identifying conditions when the selected mode will be changed to escalate the notification to the user that the user's investment in individual ones of the different asset classes is outside of the limits established by the user for these asset classes. (See Ajuha paragraph 41 and 42)

Ajuha fails to teach selecting a set of industry standard rules for categorizing investment asset classes;

selecting, from the selected set of industry standard rules, different asset classes in which the user is to have investments;

selecting the investment limits in which the user is to have investments in the different asset classes selected by the user;

Arena teaches selecting a set of industry standard rules for categorizing investment asset classes; (See Arena paragraph 37)

selecting, from the selected set of industry standard rules, different asset classes in which the user is to have investments; (See Arena paragraph 37)

selecting the investment limits in which the user is to have investments in the different asset classes selected by the user; (See Arena paragraph 71)

It would be obvious for one skilled in the art to combine Ajuha with Arena to select a set of industry standard rules for categorizing investment asset classes;

select, from the selected set of industry standard rules, different asset classes in which the user is to have investments;

select the investment limits in which the user is to have investments in the different asset classes selected by the user;

There is motivation to combine Ajuha and Arena because it will allow for a more consumer friendly system by allowing quicker investment decisions to be made.

**Regarding Claim 2.**

Ahuja further teaches:

selecting a frequency of notification that the user is to be notified that the user's investment in individual ones of the different asset classes is outside of the limits established by the user for these asset classes and selecting conditions when the frequency of notification will be changed to escalate the importance of the notification to the user. (See Ajuha paragraph 41 and 42) Examiner notes that Ajuha teaches selecting certain notifications can be selected to occur more often than other notifications.

**Regarding Claim 3.**

Ahuja further teaches:  
after the user receives notification that the user's investment in individual ones of the different asset classes is outside of the limits established by the user for these asset classes, the user determines what changes, if any, the user wishes to make in the rules by which the user's investment funds are allocated. (See Ajuha figs 1, 6(a), 6(b), 10, Paragraphs 44 and 51)

**Regarding Claim 4.**

Ahuja further teaches:  
the determination is made at pre-selected intervals and wherein  
the user is notified of the determination when the determination is made. (See Ajuha Paragraphs 5 and 6 and 51)

**Regarding Claim 5.**

Ahuja further teaches:  
the user selects the mode by which the user is to be notified that the user's

investment in individual ones of the different asset classes is outside of the limits established by the user for these asset classes and wherein (See Ajuha figs 1, 6(a), 6(b), 10, Paragraphs 44 and 51)

after the user receives notification that the user's investment in individual ones of the different asset classes is outside of the limits established by the user for these asset classes, the user determines what changes, if any, the user wishes to make in the rules by which his investment funds are allocated and wherein (See Ajuha figs 1, 6(a), 6(b), 10, Paragraphs 44 and 51)

the determination of what changes, if any, the user wishes to make in the rules by which his investment funds are allocated is made in at pre-selected intervals and wherein

the user is notified of the determination when the determination is made. (See Ajuha figs 1, 6(a), 6(b), 10, Paragraphs 44 and 51 and 53)

**Regarding Claim 6.**

Ahuja further teaches determining a mode that is to be used to notify the user; and (See Ajuha figs 1, 6(a), 6(b), 10, Paragraphs 10 44 and 51)

determining at least one condition when the mode is to be changed to escalate the notification to the user. (See Ajuha figs 1, 6(a), 6(b), 10, Paragraphs 10 44 and 51)

determining when the user is to be notified that the investments for the user in the individual ones of the different asset classes are outside of the investment limits established by the user in the individual ones of the asset classes; (See Ajuha paragraph 10 44 and 51)

Ajuha fails to further teach  
controlling the allocation of investment funds for a user acting on behalf of a participant, including the steps of:

selecting, from a set of industry standard rules, investment asset classes to govern the investment of the user for the participant,

selecting the investment limits in which the user is to provide investments in different one of the selected asset classes for the participant,

Arena teaches controlling the allocation of investment funds for a user acting on behalf of a participant, including the steps of:

selecting, from a set of industry standard rules, investment asset classes to govern the investment of the user for the participant, (See Arena paragraph 37 and 71)

selecting the investment limits in which the user is to provide investments in different one of the selected asset classes for the participant, (See Arena paragraph 37 and 71)

It would be obvious for one skilled in the art to combine Ajuha with Arena to select a set of industry standard rules for categorizing investment asset classes;

select, from the selected set of industry standard rules, different asset classes in which the user is to have investments;

select the investment limits in which the user is to have investments in the different asset classes selected by the user;

There is motivation to combine Ajuha and Arena because it will allow for a more consumer friendly system by allowing quicker investment decisions to be made.

**Regarding Claim 7.**

Ajuha further teaches:

the user represents himself or herself. (See Ajuha paragraph 9 and 10)

**Regarding Claim 8.**

Ajuha further teaches:

the user represents an individual other than the user. (See Ajuha paragraph 9 and 10)

**Regarding Claim 9.**

Ajuha further teaches

the user represents a group or class of individuals. (See Ajuha paragraph 10)

**Regarding Claim 10.**

Ajuha further teaches:

when the investment in an individual one of the asset classes selected by the user is in excess of limits established by the asset class, dealing with the excess in accordance with instructions from the user. (See Ajuha Paragraph 10 and 51)

**Regarding Claim 11.**

Ajuha further teaches

when the investment in an individual one of the asset classes selected by the user is in excess of limits established by the user for the asset class, dealing with the excess in accordance with one of the following relationships: (a) acknowledging the

situation but taking no remedial action, (b) changing the diversification limits in the individual one of the asset classes or (c) changing the asset allocation. (See Ajuha Paragraph 10 and 51 and 54)

**Regarding Claim 13.**

Ajuha further teaches  
the user represents (a) himself or herself, (b) an individual other than the user or  
(c) a group or class of individuals and wherein

when the investment in an individual one of the asset classes selected by the user is in excess of the limit established by the user for the asset class, dealing with the excess in accordance with instructions from the user. (See Ajuha paragraph 10 and 51)

**Regarding Claim 14.**

Ajuha further teaches:  
when the investment in an individual one of the asset classes selected by the user is in excess of the limit established by the user for the asset class, dealing with the excess in accordance with one of the following relationships: (a) acknowledging the situation but taking no remedial action, (b) changing the diversification limits in the individual one of the asset classes or (c) changing the asset allocation and wherein

a frequency of or the mode of notifying the user is changed when the investment in an individual one of the asset classes is in excess of the limit established by the user for the asset class. (See Ajuha paragraph 10 51 and 54)

**Regarding Claim 15.**

Ajuha teaches providing a notification to the user, upon each periodic determination, whether or not the user's investment in each asset class exceeds the limit established by the user for the asset class (See Ajuha paragraph 41 and 42 and 44)

changing the periodicity of the notification when the notification indicates that the investment of the user in at least an individual one of the asset classes exceeds the investment limit for the assets in the asset class. (See Ajuha paragraph 41 and 42)

Ajuha fails to teaches establishing a plurality of asset classes for the user's investment and a limit for the user's investment in each of the asset classes,

periodically determining the user's investment in each of the asset classes,

Arena teaches establishing a plurality of asset classes for the user's investment and a limit for the user's investment in each of the asset classes, (See Arena 71)

periodically determining the user's investment in each of the asset classes, (See Arena 76)

It would be obvious for one skilled in the art to combine Ajuha with Arena to periodically determine the user's investment in each of the asset classes,

establishing a plurality of asset classes for the user's investment and a limit for the user's investment in each of the asset classes, and

There is motivation to combine Ajuha and Arena because it will allow for a more consumer friendly system by allowing quicker investment decisions to be made.

**Regarding Claim 16.**

Ajuha further teaches

determining from the user, upon each notification to the user, whether the user wishes to change any of the asset classes or the investment limit in any of the asset classes. (See Ajuha Paragraph 51)

**Regarding Claim 17.**

Ajuha further teaches  
providing the notification to the user in a notification mode selected by the user. (See Ajuha Paragraph 51 and 54)

**Regarding Claim 19.**

Ajuha further teaches  
changing the asset classes and the particular limits in each of the asset classes when the user provides a notification to this effect. (See Ajuha Paragraph 51)

**Regarding Claim 20.**

Ajuha further teaches  
receiving from the user, upon a notification to the user of an excess above a specified limit in an asset class, one of the following: (a) an acknowledgement of the notification without any change in any of the asset classes, (b) a change in the limits in at least one of the asset classes and (c) a change in the allocation of the investments among the asset classes. (See Ajuha Paragraph 51)

**Regarding Claim 21.**

Ajuha teaches periodically notifying the user the investments in each of the selected asset classes and the values of these investments in a notification mode selected by the user, and

escalating the notification to the user in accordance with at least one selected condition by changing the notification mode or periodicity of the notification to the user.

Ajuha fails to teach

designating an individual one of a plurality of asset classification systems, selecting, in the designated one of the asset classification systems, asset classes in which investments are to be provided,

Arena teaches designating an individual one of a plurality of asset classification systems, selecting, in the designated one of the asset classification systems, asset classes in which investments are to be provided, (See Arena paragraph 37)

It would be obvious for one skilled in the art to combine Ajuha with Arena to designate an individual one of a plurality of asset classification systems, selecting, in the designated one of the asset classification systems, asset classes in which investments are to be provided,

There is motivation to combine Ajuha and Arena because it will allow for a more consumer friendly system by allowing quicker investment decisions to be made.

**Regarding Claim 23.**

Ajuha further teaches:

the notification mode includes regular mail, facsimile, e-mail and system alert messages. (See Ajuha Paragraph 44 and 51)

**Regarding Claim 24.**

Ajuha further teaches:

providing an opportunity to the user to change the asset classes in which

investments are made for the user. (See Ajuha Paragraph 51)

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES A. VEZERIS whose telephone number is (571)270-1580. The examiner can normally be reached on Monday-alt. Fridays 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/  
Supervisory Patent Examiner, Art Unit 3693

/JAMES A VEZERIS/  
Examiner, Art Unit 3693

5/22/2008